

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 24

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

1080S.04P

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 320.400, RSMo, and to enact in lieu thereof two new sections relating to the provision of resources to first responders for mental health.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 320.400, RSMo, is repealed and two new  
2 sections enacted in lieu thereof, to be known as sections  
3 190.1010 and 320.400, to read as follows:

190.1010. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Employee", a first responder employed by an  
4 employer;

5 (2) "Employer", the state, a unit of local government,  
6 or a public hospital or ambulance service that employs first  
7 responders;

8 (3) "First responder", a 911 dispatcher, paramedic,  
9 emergency medical technician, or a volunteer or full-time  
10 paid fire fighter;

11 (4) "Record", any record kept by a therapist or by an  
12 agency in the course of providing behavioral health care to  
13 a first responder concerning the first responder and the  
14 services provided. "Record" includes the personal notes of  
15 the therapist or agency, as well as all records maintained

**EXPLANATION-**Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 by a court that have been created in connection with, in  
17 preparation for, or as a result of the filing of any  
18 petition. "Record" does not include information that has  
19 been de-identified in accordance with the federal Health  
20 Insurance Portability and Accountability Act (HIPAA) and  
21 does not include a reference to the receipt of behavioral  
22 health care noted during a patient history and physical or  
23 other summary of care;

24 (5) "Peer support advisor", a person approved by the  
25 law enforcement agency or the emergency services provider  
26 who voluntarily provides confidential support and assistance  
27 to employees experiencing personal or professional  
28 problems. An emergency services provider or law enforcement  
29 agency shall provide peer support advisors with an  
30 appropriate level of training in counseling to provide  
31 emotional and moral support;

32 (6) "Peer support counseling program", a program  
33 established by an employer to train employees to serve as  
34 peer support advisors in order to conduct peer support  
35 counseling sessions;

36 (7) "Peer support counseling session", communication  
37 with a peer support advisor designated by an employer. A  
38 peer support counseling session is accomplished primarily  
39 through listening, assessing, assisting with problem  
40 solving, making referrals to a professional when necessary,  
41 and conducting follow-up as needed;

42 (8) "Posttraumatic stress disorder", any psychological  
43 or behavioral health injury suffered by a first responder by  
44 and through their employment due to their exposures to  
45 stressful and life-threatening situations and rigors of the  
46 job, excluding a posttraumatic stress injury that arises  
47 solely as a result of a legitimate personnel action by the

48 employer such as transfer, promotion, demotion, or  
49 termination, which shall not be considered a compensable  
50 injury under this section.

51       2. (1) Any communication made by an employee or peer  
52 support advisor in a peer support counseling session, as  
53 well as any oral or written information conveyed in the peer  
54 support counseling session shall be confidential and shall  
55 not be disclosed by any person participating in the peer  
56 support counseling session or released to any person or  
57 entity. Any communication relating to a peer support  
58 counseling session made confidential under this section that  
59 is made between peer support advisors and the supervisors or  
60 staff of a peer support counseling program, or between the  
61 supervisor or staff of a peer support counseling program,  
62 shall be confidential and shall not be disclosed. The  
63 provisions of this section shall not be construed to  
64 prohibit any communications between counselors who conduct  
65 peer support counseling sessions or any communications  
66 between counselors and the supervisors or staff of a peer  
67 support counseling program.

68       (2) Any communication described in subdivision (1) of  
69 this subsection may be subject to a subpoena for good cause  
70 shown.

71       (3) The provisions of this subsection shall not apply  
72 to the following:

73       (a) Any threat of suicide or homicide made by a  
74 participant in a peer support counseling session or any  
75 information conveyed in a peer support counseling session  
76 related to a threat of suicide or homicide;

77       (b) Any information mandated by law or agency policy  
78 to be reported, including, but not limited to, domestic  
79 violence, child abuse or neglect, or elder abuse or neglect;

80 (c) Any admission of criminal conduct; or  
81 (d) Any admission or act of refusal to perform duties  
82 to protect others or the employee of the emergency services  
83 provider or law enforcement agency.

84 (4) All communications, notes, records, and reports  
85 arising out of a peer support counseling session shall not  
86 be considered a public record subject to disclosure under  
87 chapter 610.

88 (5) A department or organization that establishes a  
89 peer support counseling program shall develop a policy or  
90 rule that imposes disciplinary measures against a peer  
91 support advisor who violates the confidentiality of the peer  
92 support counseling program by sharing information learned in  
93 a peer support counseling session with personnel who are not  
94 supervisors or staff of the peer support counseling program,  
95 unless otherwise exempted under the provisions of this  
96 subsection.

97 3. Any employer that creates a peer support program  
98 shall be subject to the provisions of this section. An  
99 employer shall ensure that peer support advisors receive  
100 appropriate training in counseling to conduct peer support  
101 counseling sessions. An employer may refer any person to a  
102 peer support advisor within the employer's organization, or  
103 if those services are not available with the employer, to  
104 another peer support counseling program that is available  
105 and approved by the employer. Notwithstanding any other  
106 provision of law to the contrary, an employer shall not  
107 mandate that any employee participate in a peer support  
108 counseling program.

320.400. 1. For purposes of this section, the  
2 following terms mean:

(1) "Covered individual", a **[firefighter]** **first responder** who:

(a) Is a paid employee or is a volunteer **[firefighter as defined in section 320.333]**;

(b) Has been assigned to at least five years of hazardous duty as a **[firefighter]** **paid employee or volunteer**;

(c) Was exposed to **[an agent classified by the International Agency for Research on Cancer, or its successor organization, as a group 1 or 2A carcinogen, or classified as a cancer-causing agent by the American Cancer Society, the American Association for Cancer Research, the Agency for Health Care Policy and Research, the American Society for Clinical Oncology, the National Institute for Occupational Safety and Health, or the United States National Cancer Institute]** **or diagnosed with a critical illness type**;

(d) Was last assigned to hazardous duty **[as a firefighter]** within the previous fifteen years; and

(e) **In the case of a diagnosis of cancer**, is not seventy years of age or older at the time of the diagnosis of cancer;

(2) **"Critical illness", one of the following:**

(a) **In the case of a cancer claim, exposure to an agent classified by the International Agency for Research on Cancer, or its successor organization, as a group 1 or 2A carcinogen, or classified as a cancer-causing agent by the American Cancer Society, the American Association for Cancer Research, the Agency for Health Care Policy and Research, the American Society for Clinical Oncology, the National Institute for Occupational Safety and Health, or the United States National Cancer Institute;**

(b) In the case of a post traumatic stress injury claim, such an injury that is diagnosed by a psychiatrist licensed pursuant to chapter 334 or a psychologist licensed pursuant to chapter 337 and established by a preponderance of the evidence to have been caused by the employment conditions of the first responder;

(3) "Dependent", the same meaning as in section 287.240;

(4) "Emergency medical technician-basic", the same meaning as in section 190.100;

(5) "Emergency medical technician-paramedic", the same meaning as in section 190.100";

[(3)] (6) "Employer", any political subdivision of the state;

(7) "First responder", a firefighter, emergency medical technician-basic or emergency medical technician-paramedic, or telecommunicator;

(8) "Post traumatic stress injury", any psychological or behavioral health injury suffered by and through the employment of an individual due to exposure to stressful and life threatening situations and rigors of the employment, excluding any post traumatic stress injuries that may arise solely as a result of a legitimate personnel action by an employer such as a transfer, promotion, demotion, or termination;

(9) "Telecommunicator", the same meaning as in subsection 650.320;

[(4)] (10) "Voluntary [firefighter cancer] critical illness benefits pool" or "pool", an entity described in section 537.620 that is established for the purposes of this section;

(11) "Volunteer", a volunteer firefighter, as defined in section 320.333, volunteer emergency medical technician-basic, emergency medical technician-paramedic, or telecommunicator.

2. (1) Three or more employers may create a [voluntary firefighter cancer benefits] pool for the purpose of this section. An employer or covered individual may make contributions into the [voluntary firefighter cancer benefits] pool established for the purpose of this section. The contribution levels and award levels shall be set by the board of trustees of the pool.

(2) For an employer or covered individual that chooses to make contributions into the [voluntary firefighter cancer benefits] pool, the pool shall provide the minimum benefits specified by the board of trustees of the pool to covered individuals, based on the award level of the [cancer] critical illness at the time of diagnosis, after the employer becomes a participant.

(3) Benefit levels for cancer shall be established by the board of trustees of the pool based on the category and stage of the cancer. Benefit levels for a post traumatic stress injury shall be established by the board of trustees of the pool. Awards of benefits may be made to the same individual for both cancer and post traumatic stress injury provided the qualifications for both awards are met.

(4) In addition to [an] a cancer award pursuant to subdivision (3) of this subsection:

(a) A payment may be made from the pool to a covered individual for the actual award, up to twenty-five thousand dollars, for rehabilitative or vocational training employment services and educational training relating to the cancer diagnosis;

(b) A payment may be made to covered individual of up to ten thousand dollars if the covered individual incurs cosmetic disfigurement costs resulting from cancer.

(5) If the cancer is diagnosed as terminal cancer, the covered individual may receive a lump-sum payment of twenty-five thousand dollars as an accelerated payment toward the benefits due based on the benefit levels established pursuant to subdivision (3) of this subsection.

(6) The covered individual may receive additional awards if the cancer increases in award level, but the amount of any benefit paid earlier for the same cancer may be subtracted from the new award.

(7) If a covered individual dies while owed benefits pursuant to this section, the benefits shall be paid to the dependent or domestic partner, if any, at the time of death. If there is no dependent or domestic partner, the obligation of the pool to pay benefits shall cease.

(8) If a covered individual returns to the same position of employment after a cancer diagnosis, the covered individual may receive benefits in this section for any subsequent new type of covered cancer diagnosis.

(9) The **cancer** benefits payable pursuant to this section shall be reduced by twenty-five percent if a covered individual used a tobacco product within the five years immediately preceding the cancer diagnosis.

(10) A **cancer** claim for benefits from the pool shall be filed no later than two years after the diagnosis of the cancer. The claim for each type of cancer needs to be filed only once to allow the pool to increase the award level pursuant to subdivision (3) of this subsection.

(11) **A payment may be made from the pool to a covered individual for the actual award, up to ten thousand dollars,**



for seeking treatment with a psychiatrist licensed pursuant to chapter 334 or a psychologist licensed pursuant to chapter 337 and any subsequent courses of treatment recommended by such licensed individuals. If a covered individual returns to the same position of employment after a post traumatic stress injury diagnosis, the covered individual may receive benefits in this section for the continued treatment of such injury or any subsequently covered post traumatic stress injury diagnosis.

(12) For purposes of all other employment policies and benefits that are not workers' compensation benefits payable under chapter 287, health insurance, and any benefits paid pursuant to chapter 208, a covered individual's [cancer] **critical illness** diagnosis shall be treated as an on-the-job injury or illness.

3. The board of trustees of [the pool] **a pool created pursuant to this section** may:

(1) Create a program description to further define or modify the benefits of this section;

(2) Modify the contribution rates, benefit levels, including the maximum amount, consistent with subdivision (1) of this subsection, and structure of the benefits based on actuarial recommendations and with input from a committee of the pool; and

(3) Set a maximum amount of benefits that may be paid to a covered individual for each [cancer] **critical illness** diagnosis.

4. The board of trustees of the pool shall be considered a public governmental body and shall be subject to all of the provisions of chapter 610.

5. A pool may accept or apply for any grants or donations from any private or public source.

161           6. (1) Any pool may apply to the state fire marshal  
162 for a grant for the [purpose of establishing a voluntary  
163 firefighter cancer benefits] pool. The state fire marshal  
164 shall disburse grants to the pool upon receipt of the  
165 application.

166           (2) The state fire marshal may grant money disbursed  
167 under section 287.245 to be used for the purpose of setting  
168 up a pool.

169           (3) This subsection shall expire on June 30, [2023]  
170 **2028.**

171           7. (1) This subsection shall not affect any  
172 determination as to whether a covered individual's [cancer]  
173 **critical illness** arose out of and in the course of  
174 employment and is a compensable injury pursuant to chapter  
175 287. Receipt of benefits from [the] a pool under this  
176 section shall not be considered competent evidence or proof  
177 by itself of a compensable injury under chapter 287.

178           (2) Should it be determined that a covered  
179 individual's [cancer] **critical illness** arose out of and in  
180 the course of employment and is a compensable injury under  
181 chapter 287, the compensation and death benefit provided  
182 under chapter 287 shall be reduced one hundred percent by  
183 any benefits received from the pool under this section.

184           (3) The employer in any claim made pursuant to chapter  
185 287 shall be subrogated to the right of the employee or to  
186 the dependent or domestic partner to receive benefits from  
187 [the] a pool and such employer may recover any amounts which  
188 such employee or the dependent or domestic partner would  
189 have been entitled to recover from [the] a pool under this  
190 section. Any receipt of benefits from the pool under this  
191 section shall be treated as an advance payment by the

192 employer, on account of any future installments of benefits  
193 payable pursuant to chapter 287.

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